



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-580-885

Phosphor Copper from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that phosphor copper from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The Department also preliminarily determines that critical circumstances do not exist with regard to imports of phosphor copper from Korea. The period of investigation (POI) is January 1, 2015, through December 31, 2015. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

FOR FURTHER INFORMATION CONTACT: Cindy Robinson AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3797.

SUPPLEMENTARY INFORMATION:

Background

In response to petitions filed on March 9, 2016,¹ the Department published the notice of initiation of this LTFV investigation concerning imports of phosphor copper from Korea on

¹ See the Petition for the Imposition of Antidumping Duties on Imports of Phosphor Copper from the Republic of Korea, dated March 9, 2016 (the Petition).

April 5, 2016.² On July 27, 2016, the Department received timely allegations, pursuant to sections 703(e)(1) and 733(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances exist with respect to imports of phosphor copper from Korea.³ For a complete description of the events that followed the initiation of this investigation, *see* the memorandum that is dated concurrently with this determination and hereby adopted by this notice.⁴ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is phosphor copper from Korea. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix I.

² *See Phosphor Copper from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 19552 (April 5, 2016) (*Initiation Notice*).

³ *See* Petitioner's letter "Phosphor Copper from the Republic of Korea: Petitioner's Critical Circumstances Allegation," (Critical Circumstances Allegation) dated July 27, 2016.

⁴ *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Phosphor Copper from the Republic of Korea" (Preliminary Decision Memorandum), dated concurrently with this notice.

Scope Comments

In accordance with the preamble to the Department's regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁶ No interested party submitted comments on the scope of this investigation.

Postponement of Deadline for Preliminary Determination

On August 5, 2016, the Department published the notice of postponement for the preliminary determination in this investigation in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).⁷ As a result of the 50-day postponement, the revised deadline for the preliminary determination of this investigation is October 5, 2016.⁸

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772 of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Negative Determination of Critical Circumstances

On July 27, 2016, Metallurgical Products Company (Petitioner) filed a timely critical circumstance allegation pursuant to section 733(e) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of phosphor copper from Korea.⁹ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted

⁵ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁶ See *Initiation Notice*, 81 FR at 19553.

⁷ See *Phosphor Copper from the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 81 FR 51858 (August 5, 2016).

⁸ *Id.*

⁹ See Petitioner's letter "Phosphor Copper from the Republic of Korea: Petitioner's Critical Circumstances Allegation," dated July 27, 2016.

more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. We have conducted an analysis of critical circumstances in accordance with section 733(e) of the Act and 19 CFR 351.206, and preliminarily determine that critical circumstances do not exist with regard to imports of phosphor copper from Korea. For a full description of this issue, *see* the Preliminary Decision Memorandum.

All-Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Bongsan Co., Ltd. (Bongsan) is the only respondent for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the “all others” rate

and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Bongsan, as referenced in the “Preliminary Determination” section below.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Producer and/or Exporter	Weighted-Average Dumping Margin (percent)
Bongsan Co., Ltd.	3.79
All-Others	3.79

Suspension of Liquidation

Because the Department has made an affirmative preliminary determination of sales at less than fair value, in accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of phosphor copper from Korea, as described in the “Scope of the Investigation” section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to section 733 (d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price as indicated in the chart above. The suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

Disclosure and Public Comment

We will disclose the calculations performed to interested parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b).

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

¹⁰ See 19 CFR 351.309.

All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.¹¹

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

October 5, 2016
Date

¹¹ See 19 CFR 351.310(c).

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is master alloys¹² of copper containing between five percent and 17 percent phosphorus by nominal weight, regardless of form (including but not limited to shot, pellet, waffle, ingot, or nugget), and regardless of size or weight. Subject merchandise consists predominantly of copper (by weight), and may contain other elements, including but not limited to iron (Fe), lead (Pb), or tin (Sn), in small amounts (up to one percent by nominal weight). Phosphor copper is frequently produced to JIS H2501 and ASTM B-644, Alloy 3A standards or higher; however, merchandise covered by this investigation includes all phosphor copper, regardless of whether the merchandise meets, fails to meet, or exceeds these standards.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7405.00.1000. This HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

¹² A “master alloy” is a base metal, such as copper, to which a relatively high percentage of one or two other elements is added.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

- I. Summary
- II. Background
- III. Period of Investigation
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- VIII. Discussion of the Methodology
 - A. Determination of the Comparison Method
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- IX. Date of Sale
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